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CHAPTER X

JUDICIAL AND CLERICAL OFFICERS; LAWS GOVERNING INHERITANCE

THERE are in the Rif two classes of officials who concern themselves with judicial and clerical functions: the "clerk," or *adl*[1] (plural *adul*[1]), and the "judge," or *kadhi*. The former is something between a town clerk and minor judge, and the latter a supreme court of appeal. Both concern themselves only with civil, never with criminal, disputes. 693 624

The clerk is a former student who specialized in the cantonal mosque in the study of law, rather than in the usual study of magic and religion: some clerks, however, indulge in magical practices on the side as an additional source of income. The clerk takes pains to keep this second profession secret, lest he be expelled from office. Most clerks spend longer than the average period at study, and attend several different mosques in the course of their preparation. [791]

There is at least one clerk in every *bone*. Any person who is qualified by his training may set up as a clerk, but must receive the consensus of local approval before he is entrusted with enough business to make this occupation profitable. A clerk must be dignified and pious. 624

The clerk is often the schoolmaster of the *bone* as well. In smaller *bones* it is usually an economic necessity for one man to fulfill these two offices, consequently the terms "schoolmaster" and "clerk" have become somewhat confused. A clerk is often called schoolmaster, but a schoolmaster who is not a clerk is never called clerk. [875]

The duties of the clerk include writing and reading letters for illiterate persons, settling controversies as to ownership of property, making out and administering wills, and drawing up documents of sale for landed property and documents of marriage and divorce. He is also called upon to slaughter animals upon ceremonial occasions. [211]

In making out a document of marriage, the clerk writes out the names of the bride and groom, and the amount paid for the bride. He gives the paper to the bride and makes a duplicate, which he keeps. His signature renders the document valid. He similarly makes out divorce papers, which he gives to the woman, who can thus prove that she is no longer under obligation to her husband. [585] [586]

When the clerk makes out the document for a land sale, he takes the old document from the seller, and gives both old and new papers to the purchaser. Each time a piece of land changes hands a new paper is made out, and the present owner has in his possession all of the extant bills of sale for that piece of land. When a piece is subdivided the heir of the owner of the original piece at the time of its subdivision keeps the papers recording transfers prior to this subdivision. 624 432

When a man wishes to sell some of the land which has been in his family since time immemorial, and for which there is no paper, he informs the clerk, who advertises for any other claim to this land, either written or oral, and finding none makes a bill of sale.

[1] The usual Arab notary.

704 272 A person who in the evening is going to carry milk from his own house or tent to that of somebody else, puts a little salt in it to protect it from jnun (Ait Waryager, Temsaman), or he drops into it a green grass-blade as a charm which will avert evil from the cows (Ulad Bu aziz). If milk is given to a neighbor he must not return the vessel empty but he must put something into it, for example, flour, or salt, or grass, or water; otherwise the house or tent of its owner will also become empty (Ait Warain, At Ubahti, Temsaman). But if a person takes milk out of his house or tent to give it to some one to drink, he must not take back there anything of it which is left, but should drink it himself or give it to some poor person or a dog, or pour it out in a place where nobody walks; should he take it back with him his cows, or his family as well, would have to suffer for it (Andjra, Ait Waryager, At Ubahti). If a person who is carrying milk meets another on the road, he must offer him a drink of it, and, as said above, the latter is obliged to accept the offer or, at least, to dip a finger, generally the little finger of the right hand, which is the cleanest, into the milk, putting it then into his mouth or touching his forehead with it. The offering of milk serves as a safeguard against [754] the evil eye, and will besides benefit the offerer in a more positive manner owing to the blessing pronounced on him by the recipient, which will make his animals thrive. But I have also heard that you should offer milk even to a person who does not know that you are [244] carrying such a thing; for if you conceal milk from him God will always conceal it from you (Andjra). The custom in question seems to prevail all over Morocco; but sometimes I was told that it is only observed in the morning (Ait Nder), or not between enemies (Ait Waryager). While gratuitous offering of milk is thus in certain circumstances prescribed by custom, the sale of milk is forbidden [432] (Temsaman): he who sells milk will not have much of it (Andjra), something bad will happen to his cows (Ulad Bu aziz), or he will leave his children destitute (Ait Warain). This rule is often broken, especially in towns where there are European residents; but during my stay in Marraksh I often found people unwilling to sell milk. A gratuity, however, is readily accepted for the milk offered to a stranger of note who passes through the village. When it is offered to the Sultan on horseback he dips the little finger of his right hand into it, wipes off the milk on the neck of his horse, and tells his amin,

784 who is riding behind him, to give money to the offerer. When a per-
272 son receives a vessel containing milk he should use both his hands; and if anybody is going to drink milk he must first say the bismillah. Nobody is allowed to laugh while drinking milk.

When a cow has calved, special precautions must be taken with regard to its milk. It must not be removed from the house or tent for two (Hiaina, Ait Warain, Ait Nder), three (Ulad Bu aziz, Tsul), or even seven (Ait Waryager) days. If it were, the cow would be injured by the evil eye and its teats would get diseased. On the first day the milk is always boiled, and in many places on the second (Hiaina, Ait Warain, Ait Nder) or the third (Ulad Bu aziz, Tsul) as well. Among the Ait Waryager it is on the first day eaten boiled (it is then called adhas) and mixed with eggs, and on the second and third day it may be boiled; but only members of the household are allowed to partake of the adhas, and a transgression of this rule is considered to cause injury to the cow.

784 [251] When a woollen jellab is washed, the water must not be
296 squeezed out of it lest the wool should be dear, but it must be left to dry in the sun (Andjra, Ait Waryager).

784 [252] Another taboo relating to bread—as well as to milk—is the
262 prohibition of selling it, which is very imperative among Berber-
● 432 speaking people. Among the Ait Waryager a person might, by sell-
689 ing bread, even run the risk of being killed by his relatives; and I was told that a Berber of the central group (Braber) would rather die of hunger than buy a loaf of bread.

778 [253] The person who writes a charm must not only be clean, but
784 also be in the habit of saying his daily prayers and of observing the
[783] fast of Ramadan; and in some special cases he must besides abstain from salted food for a week (Ait Waryager), or he must write the charm in a state of nakedness (Ulad Bu aziz).

[256] Among the Ait Waryager a vessel containing fresh milk must not be taken into a mosque.

778 [257] Although there are charms which are written when the sun is
821 shining on the paper, I have much more often heard that a charm loses its baraka if the sun shines on the writing or even on the paper after it has been written upon (Andjra, Hiaina, Ait Waryager), and the reason given for it was that baraka must not meet bâraka (Hiaina); yet charms written with rose-water or saffron are said not to be spoiled

representative), while among the Shluh Berbers of the Western Atlas and among the Rgaybat Bedouins of the Western Sahara, women can be their own ukilat (fem. pl. of ukil), although they cannot represent other women, as I once saw in Ibuqquyen (West-Central Rif)[66]...Rifian women may visit their families whenever they want to, and, in general, if Berber women are not given the same treatment and value as men are, they do, nonetheless, have certain advantages which derive from their status as minors.....In the Rif, women's markets are an example of this: they are meeting places completely free from men, where transactions take place, where brides are looked for, where amulets are bought and where news of the day is heard and spread. But a woman in the Rif, if she passes a man on a path, must always give him the right of way: she greets him first, lets him have the right of way, and continues on the lower part of the path....Rifian women love their children.

E) Property (fragmentary notes):

In the buying and selling of individual property, the jma'th (used here in the sense of council) did not intervene; the only parties concerned were the buyer, the seller, two 'udul (notaries public) and the qadi, the latter three individuals having to draw up and sign the necessary document. Even in the case of jma'th property[67], the jma'th did not intervene; once again, the 'udul drew up the documents in question....In the event of renting land, in which a document is not needed, the petition is handed to the village mqaddim (headman) who convokes the jma'th and agrees to the conditions. The same applies in case of mortgages....In case the petitioner does not fulfill his

671 al-Faqir Siddiq al-'Arusi, Muhammad ibn Tahra, Sidi Musa ibn al-Hajj
628 Sayyid 'Amar Tahtahi, Muhammad bin Bu Hammud Mulaidi; al-Hajj Sidi
613 Misa'ud al-Manduri; Sa'id bin al-Hajj Haddu al-Ufari, Muhammad bin
682 al-Faqir Muhammad bin al-Hajj Ahmad al-Barzi, Muhammad Bu Shu'an, and
[792] the rest of the notables of Tzurakhth (Blanco: note 11) sold all that was handed over to them to the brothers of the murdered man for the above sum, converting it into money.

(Blanco: note 12) The amount stated above was levied and the quantity (literally, price) was divided into four parts: 300 duros for the lineage of Izzugwaghen; the same for the Awlad al-Hajj 'Amar; the same for the Awlad Muhammad bin Muh bin al-Hajj Muhammadi al-Tazurakhti; and 150 duros for the Awlad Ahmad bin Taimunt (to be split) with Muhammad bin Tah, and the same for Muhammad bin Taimunt bin Misa'ud (to be split) with the Awlad Hammu Kabghith. One hundred (100) duros were divided in half between the son of Bukhalif, that is, Siddiq, and 'Abd al-Qadir Hashsha'.

(Blanco: note 13) Each of the abovementioned parties shall divide with its brothers (i.e. those of the same jurisdiction) the amount which it has exacted and with regard to the quantity of the same.

671 An irrevocable and non-retractable sale, effected (Blanco:
628 note 14) for repression and exemplary punishment. The sellers having
613 levied the total of the abovementioned sum, in the upper part of the
681 present <u>qanun</u>, from the hands of the buyers cited above, thus liberating
• 432 the sellers from all actions or reclamation regarding this matter and the above-cited buyer thus occupying (the lands) instead of the sellers, as his share. That is to say, occupying the place of the owner in the land, of the land which he buys and that of the owner of immovable

property in that belonging to him, in conformance with traditional law.[25]

Those who attended the present (act) brought their testimony to the above according to the requirements of the interested parties. --In the middle of Jumad al-Awwal of the year 1336 (February 27, 1918). --The 'adl, Muhammad bin Muhammad bin al-Hajj al-Warnuri.--Another, whose name is not known.--Another, Muhammad bin Sidi 'Abd al-Qadir al-Ghamri.

B) Commentary:

The social disintegration which Rifian society has reached is proven by these individual agreements between dharfiqin (Blanco: note 1, corresponding to text of qanun). In the face of helplessness or irregular functioning of higher-level associations, the poor tribesmen, before falling into complete anarchy, hastened to conclude an agreement with a neighboring group in order to attenuate that anarchy, succeeding in the hard struggle for life on a poor soil. These agreements thus formed true islets of irregular and variable peace, anchored in functional (sic) anarchy.

The necessity of agreements between lower-level lineages, who were abandoned by the rudimentary organization, obeyed, according to my understanding, those most curious periods which followed the public declaration of anarchy in the suq, when one powerful group managed by force to sustain the punishment, breaking the truce.

As the dispute was generalized between two preponderant rivals, the unaffected groups, before falling into anarchy, and with that notable instinct of self-defense, worked to bring about these agreements,

312 571 [613] [596] in the following turn it will take it up at night, and with another order among the irrigators in which the first in one turn will be the last in the next. These two classes of turns, this order of irrigation, is usually set up for the whole duration; when it is begun, the irrigators draw lots with small sticks or twigs, and, at other times, it is set up differently every day. The transfer of

312 571 425 [432] [805] [435] turns is free, as is the decision of the person to be favored. Turns of water are the object of buying and selling, and are independent of land. A 12-hour turn every week (eight days) comes to some 500 or 600 duros (1939).[124]

312 [821] The hour to begin irrigating is that of the rising or setting of the sun, according to whether the turn itself is diurnal or nocturnal. The repairs depend on their importance and where they are made, the users of the branch in question contributing to these, downstream. The outlets or cuts of water are the responsibility of

312 571 805 the individual who is irrigating at the time. The duration of turns was regulated by means of natural hours, those of the prayers, and by measurements of the shade and the angle of the same with some object, in other words, a true sun dial.

312 627 628 671 Differences were resolved, as noted, by means of arbitration, valuation or assessment, or indemnification, apart from governmental intervention if this is deemed necessary, as some qanuns express.

312 184 The variations in the treatment of ditches require the conformity of all the ditch-users to be expressed by themselves or their representatives personally, in a meeting convoked to this effect on the sites which are to be the objects of modification, in the system or traditions of irrigation.

695 is to be found situated above the ditch of 'Umar bin Yusif al-Waryaghli.
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[693] This is what the witnesses of the present (act) certify without there being (any) doubt existing in it. A complete attestation.

693 The undersigned notaries who have compiled (the testimonies which
695 these individuals afforded) from them testify that the latter are in a perfect state of legal capacity (i.e. of sound mind and memory) to testify, and they know them (i.e. personally).

[805] On the 21st day of the blessed Sha'ban of the year 1150 (December 13, 1737). Two illegible signatures follow.

19. PURCHASE AND SALE OF AN IRRIGATION TURN: TRANSLATION:

Praise be to the one God.

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432 The Qa'id Sulaiman bin Muhammad al-Waryaghli al-Khattabi al-Ajdiri[176] buys, with the power and force of God, from the one who sells it, Siddiq bin Muhammad bin Siddiq al-'Abdallawi[177], one-fourth (of a part) of the irrigation ditch of Bulma'iz, (in his turn) by day or by night, his turn reappearing about (once) every nine days; on some occasions
432 he gets it during the day, and on others at night. A valid, definitive
[435] and firm purchase, so much down, without conditions of resale or op-
[436] tions (to anything) other than that assigned here), for a price the sum of which is 100 duros, in Spanish money (i.e. 500 pesetas). This amount the abovementioned seller has taken from the abovementioned buyer, thus recognizing it in front of both witnesses instrumental to the present act, freeing the buyer from it, who took over his purchase with complete possession, occupying it in his place of ownership in conformity with the traditional law and the right of rehibitory action

432 (against this sale which was put into effect) after the sight, pleasure and knowledge of his capability as required.

Both parties concerned know the value of the present act, and, by virtue of this, the undersigned witnesses testify to the declarations of both, for both buyer and seller are in a perfect state of legal capacity (of sound mind and memory) to agree; and the witnesses know (805) them both by sight and by name. In the first part of Rabi' al-Thani of the year 1347 (August 19, 1928).

000 Servant of his God, 'Abd al-Salam bin 'Ali al-Ajdiri, may God be benevolent toward him, amen (signature). Servant of his God, 'Abd al-Karim bin 'Umar al-Khattabi, may God be benevolent toward him, amen. (signature).

Stamp of approval of the qadi: Both 'udul have borne witness (with respect to the above), which he (i.e. the qadi) accepts and to which he gives faith. Servant of his God, Muhammad bin al-Hajj Ahmad al-Bu-Dhimmusi[178], may God be benevolent toward him. Amen. (Signature).

20. SUMMARY OF IRRIGATION:

312 133 In a few words we may show the present day importance and interest of irrigation in the Aith Waryaghar, as tourists from time to time cross this splendid Plain of al-Husaima....

This Plain, under rudimentary cultivation even today (1938), as no one has succeeded or even proposed to amplify it, is completely criss-crossed by an intricate net of tiny irrigation ditches which in general do not feel the touch of water more than every eight days, and some even every eighteen days; and this for winter cultivation.

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[175] 129--Al-Mazimma was the port, in the 8th century A.D., for the City of Nakur. Modern Rifians do not confuse it with al-Husaima which, they say, aside from the present city and provincial capital of that name, covered the whole area from Badis in Bni Bu Frah to Ras Sidi Sh'aib in Thimsaman. It should also be noted that Sidd, in Arabic, means "dam".

[423] [432] 130--A translation of this document is given in Chapter XVII. It should be noted, in any case, that if a foreigner or anyone whose family does not traditionally irrigate in the area comes to buy land (and to build a house, etc.) in the Lower Ghis region, he has no right to irrigation water until he buys an irrigation turn. He must, furthermore, have a document proving that he bought his turn.

[712] [648] [175] [113] 131--The Jami' al-Mujahidin, or "mosque of the fighters of the faith", where the Aith Waryaghar mounted a permanent and perpetual guard against Spanish invasion, from 1673, when Spain occupied the Isle of al-Husaima, until 1926, when 'Abd al-Krim surrendered. See Andrés Sánchez Pérez, "Datos Historicos sobre Ciudades Rifeñas, Selección de Conferencias y Trabajos realizados durante el Curso de Interventores 1951-52, Tetuan 1952, pp. 29-47.

[175] [648] [631] 132--Both these men were of Ajdir, subclan of Aith Ughir Iyizan, clan of Aith Yusif w 'Ari. The Qa'id Sriman r-Khattabi, a lifelong enemy of 'Abd al-Krim who during the Rifian War was pensioned by the Spaniards and in 1926 made qa'id of all Aith Waryaghar by them, died in 1936.

133--This statement needs some qualification. The four names under consideration here, although two of them (Ajdir and Ughir Iyizan) certainly correspond to lineage names, are in effect names of irrigation turns, for, on the other hand, Bu Mqathir and Zawith (the latter refers to the area around the Monday Women's Market, at Azghar, and not, as far as we know, to any particular zawiya) are both place names, and in both these instances, as indicated in the notation of participants in the Zawith turn, it is the lineages who form local groups in the area under consideration who have right to irrigation water, irrespective of their clan affiliations. In the Zawith turn, again, one of the participating ijujga is that of the Andrusen: this lineage, whose name means "Andalusians", has become a member segment of the subclan of Lower Imrabdhen, in the clan of the Imrabdhen; we say "has become" rather than "is", because, as in fact its name shows, it is made up of the descendants of "foreign shurfa" rather than of those of local ones. Another participating jajgu, the Ihaddallahan, is a lineage branch of the Aith Mis'aud u Yusif of Ajdir, of the subclan of the Aith Ughir Iyizan in the clan of the Aith Yusif w 'Ari; while the Ushshannen are a branch of the Aith 'Aru 'Aisa, also of Ajdir. We have unfortunately been unable to establish the lineage affiliations of the Fisra and Dharwa nd-Hajj 'Abdinnbi; and, like Blanco's, our own notes on irrigation in the Lower Ghis (made in Imzuren in the autumn of 1953) have nothing to say regarding the lineage participating in the Bu Mqathir turn on the fifth day.

However, one point is very clear: that with the rotation over the first four days between Ajdir and Ughir Iyizan, and the additional fact that at least two lineages of Ajdir participate in the Zawith turn,

796 Since traveling has been so severely restricted by limitations
785 of energy, the end of Ramadan finds friends and relatives paying
[574] numerous visits to one another. If the family can afford it, it
[432] is customary to buy new clothes at this time. The men of the
[431] community all retire in the morning to the village mosque where
[794] they are expected to give small gifts of cash or in kind. While it is not obligatory, the men of the mosque often take up subscription in order to purchase and distribute amongst themselves a bull.

796 The remainder of the cycle of festivals are of secondary importance in terms of economic activity. There are small celebrations for the beginning of the Muslim year, 'Ashura, and on the 27th day of the seventh month (Rajab) commemorating the ascension of Mohammed to the ultimate heaven. On the 12th day of the third month, the anniversary of the birth of the Prophet is celebrated. Coon (1931:152) states that on this day the men
[782] of each community purchase a bull which they sacrifice and dis-
[014] tribute among themselves. Unfortunately, I neglected to corroborate this point while in the field.

346 Before turning from religious activities to magical prac-
794 tices, I wish to discuss the maintenance of the local community mosque. Within each tribal section or cluster of villages there is a mosque which the men of the community attend on Fridays and on important religious occasions. The rural mosque looks more or less like an ordinary Riffian home of residence built of mud bricks with an open courtyard. The mosques have no minarets.